D.B. INCOME TAX APPEAL NO. 06/2004.
CIT AJMER VS. M/S.A.K. SYNTHETICS

D.B. INCOME TAX APPEAL NO. 02/2004.
CIT AJMER VS. M/S.CHANDAN SYNTHETICS

DATE OF ORDER : 09.09.2005.

HON'BLE MR. RAJESH BALIA,J.
HON'BLE MR. R.S. CHAUHAN, J.

Mr. K.K. Bissa for the appellant.
Mr. Anjay Kothari for the respondents.

These two appeals are of two sister concerns and founded on identical facts. However, the issues raised in the two appeals are alike apart from the additions made by the Assessing Officer which were deleted by the CIT (Appeals) as well as by the Tribunal.

Sworn of the figurative difference in the two cases, the common dispute is additions made on account of discrepancy found by the Assessing Officer in the statement of the Stock Register maintained by the assessee and the statements of Stocks of yarn clothes Trade submitted to the Bank for the purposes of obtaining loan facilities from the Bank. On being asked to explain, the assessee stated that while the statements were produced before the Bank, they were drawn in defective manner and by mistake in the stock position of the firm.

The goods received by the firm for doing the job clothing which otherwise was also included in the statement given to the Bank for the purpose of obtaining loan on the basis of the stock position, this explanation was not accepted by the Assessing Officer. However, when the matter was before the CIT (Appeals), he referred to the correspondence between the assessee and the Bank, which fortified the assessee's contention with the Statements of stocks yarn trade as submitted to the Bank had included not only the stocks of his study activity, but also stocks goods which he received from factory which is not a part of the Stock in trade. The bank has shown his disclosure for submitting such faulty explanation for obtaining loan facilities and, therefore, the CIT (Appeals) found the explanation furnished by the assessee for seeming discrepancy in the stocks position in the Register of the Stocks maintained for study activities submitted to the bank but submitted on 30.4.91 and 31.5.91. As the explanation submitted by the assessee for the discrepancy in the stock position at two levels, was accepted, the CIT appeals deleted the additions made on account of which the discrepancies by the Assessing Officer and such deletion was affirmed by the Tribunal.

The CIT (Appeals) has given detail reasons in

Chandan Singh case and said reasons have been drafted without referring details in M/s. A.K. Synthetics case. It would be apposite to refer the reasoning that prevailed with the CIT (Appeals) and also with the Tribunal:

> "I have carefully considered the facts of the case as well as the submission of the learned counsel of the appellant. It was stated before the A.O. that the stock as declared to the bank as on 30.4.91 and 31.5.91 consisted of appellant's own stock as well as stock of outside parties and this was done to present a favorable picture of the financial position of the appellant firm. The register in which yearn received from outside is recorded was also produced before her. However, in want of proper confirmation and explanation she rejected this explanation. Before me the learned counsel for the appellant has reiterated the explanation filed before the A.O. and has also filed copies of the correspondence entered between the bank and the appellant firm, photo stat copies of the yarn register in which yarn received from out sides parties is recorded along with challan number, confirmation letters from the out siders whose yarn was lying with the appellant as on30.4.91 and 31.5.91 and also produced original challans in support of their contentions. I am not treating all these paper as additional evidence because all these are being filed to corroborate the fact already

stated before the A.O. and to support the original book of record i.e. the yearn receipt register and therefore no opportunity separately is being given to the A.O. to comment on the documents and confirmation letters filed from the out side parties filed by the appellant. At the same time it may be stated here that what ever other papers were filed by the appellant during the course of earlier hearings were forwarded to the A.O. by my predecessor on 14.2.95 and as such she has been provided an opportunity in respect of documents like correspondence between the bank and the appellant firm, revised statements,photo copies of register etc. etc.

Now from the material and evidence produced before me it is obvious that the stock declared to the bank by the appellant firm as on 30.4.91 and 31.5.91 included the stock of out side parties also. Therefore if the combined total of the own stock of the appellant and the stock of the outside parties is taken there will be no discrepancy at all. This fact is not only evident from the evidence produced by the appellant it self but also from the letters of the bank authorities. The revised statement of stock filed by the appellant after the warning from the bank that stock of out side parties should not be included in the monthly statement of stock confirmed the quantity of stock recorded in the books of a/c. In view of these facts I would hold that as a matter off act there was

> no discrepancy between the stock as declared to the bank and as recorded in the books of a/c as on 30.4.91 and 31.5.91. The obvious difference was because of the fact that while the stock declared to the bank consisted of appellant's own stock and the stock of out side parties for whom it is doing job work, while the stock recorded in the books of a/c was its own only and excluded the stock of out side parties. Thus the difference found in the stock as declared to the bank and as declared in the books of a/c is fully and satisfactorily explained. Therefore, no adverse view can be taken on this ground. I would therefore hold that the addition of Rs.24,91,060/- is without any basis and therefore deleted hereby.

Since the additions made on account of the study activities was founded on premise that the assessee has not explained satisfactory difference between the stock register submitted to the bank and shown in the books of the account and that premise for making additions made was not accepted by CIT (Appeals), other additions found in discrepancies were also deleted. These findings have been affirmed by the Tribunal.

We are of the opinion that this is clearly a finding of fact and founded on material which was available with the Tribunal and the appellate authority. The

interference to be drawn from material which is plausible does not give rise to any question of law much less substantial question of law either on fact or on application of any law.

The appeals fail and are hereby dismissed. No order as to costs.

(R.S. CHAUHAN)J. **(RAJESH BALIA)J.**

Anil/